

Applicant : Vladimir BAKHUTASHVILI
U.S. Serial No.: 10/795,819
Filing Date : March 8, 2004
Page : 6

Remarks

By this Amendment, Applicant has canceled claims 2, 3, 23, 24, 65, 67 and 85-98 without prejudice, and added new claims 99-118.

Support for the new claims can be found inter alia in the Specification as filed and/or in canceled claims 2-3.

Support for "effective amount" can be found inter alia in the canceled claims and on page 35, line 30, of the specification.

Support for claims 99 and 115 can be found inter alia on page 18 of the specification.

Support for claim 100 can be found inter alia on page 19, lines 13-15, of the specification.

Support for claim 101 can be found inter alia on page 19, lines 25-26, of the specification.

Support for claim 102 can be found inter alia on page 19, line 31, of the specification.

Support for claim 103 can be found inter alia on page 20, line 12, of the specification.

Support for claim 104 can be found inter alia on page 20, line 26, of the specification.

Support for claim 105 can be found inter alia on page 20, line 28, of the specification.

Applicant : Vladimir BAKHUTASHVILI
U.S. Serial No.: 10/795,819
Filing Date : March 8, 2004
Page : 7

Support for claim 106 can be found inter alia on page 16, line 11, of the specification.

Support for claim 107 can be found inter alia on page 20, lines 32-33, of the specification.

Support for claim 108 can be found inter alia on page 21, lines 1-6, of the specification.

Support for claim 109 can be found inter alia on page 21, line 27, of the specification.

Support for claim 110 can be found inter alia on page 22, lines 5-12, of the specification.

Support for claim 111 can be found inter alia on page 22, lines 14-15, of the specification.

Support for claim 112 can be found inter alia on page 22, lines 17-22, of the specification.

Support for claim 113 can be found inter alia on page 22, lines 20-21, of the specification.

Support for claims 114, 116 and 118 can be found inter alia on page 25, lines 4-16, of the specification.

Support for claim 117 can be found inter alia on page 27, lines 17-29, to page 28.

Accordingly, there is no issue of new matters. Therefore, Applicant respectfully requests the entry of this Amendment.

Applicant : Vladimir BAKHUTASHVILI
U.S. Serial No.: 10/795,819
Filing Date : March 8, 2004
Page : 8

Upon entry, claims 99-118 will be pending and under examination.

1. Election/Restrictions

The Examiner states that "Applicant's election with traverse of Group I, claims 2, 3, 65 and 85-98... is acknowledged.. The requirement is still deemed proper and is therefore made FINAL." See page 2 of June 20, 2005 Office Action.

In response but without conceding the correctness of the Examiner's position and to expedite the prosecution of this Application, Applicant has canceled claims 2, 3, 65 and 85-98 without prejudice. The new claims do not contain the above mentioned issues.

2. Rejection under 35 U.S.C. § 112, Second Paragraph

The Examiner rejected claims 2, 3, 65 and 85-96 under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. See page 3 of June 20, 2005 Office Action.

In response but without conceding the correctness of the Examiner's position and to expedite the prosecution of this Application, Applicant has canceled claims 2, 3, 65 and 85-96 without prejudice. New claims do not contain the above mentioned issues, thereby rendering this ground of rejection moot.

Applicant : Vladimir BAKHUTASHVILI
U.S. Serial No.: 10/795,819
Filing Date : March 8, 2004
Page : 9

3. Rejection under 35 U.S.C. § 102

3.1. The Examiner rejected claims 2, 3, 65 and 85-96 under 35 U.S.C. 102(a) as being anticipated by "Drugs of the Future (1999)". See page 3 of June 20, 2005 Office Action.

In response but without conceding the correctness of the Examiner's position and to expedite the prosecution of this Application, Applicant has canceled claims 2, 3, 65 and 85-96 without prejudice. The new claims do not contain the above mentioned issues, thereby rendering this ground of rejection moot.

In addition, Examiner states that "Drugs of the Future teaches a composition comprising plaferon" and that "since plaferon is obtainable from amniotic tissues and exhibits each of the ... peaks as in figures 2 and 3, the compositions are the same." See page 4 of June 20, 2005 Office Action.

In response, Applicant respectfully traverses the Examiner's above ground of rejection. Applicant maintains that "Drugs of the Future" does not teach a person of ordinary skill in the art what constitutes the preparation or how to obtain such a preparation. "Drugs of the Future" also does not show plaferon exhibits each of the peaks as shown in figure 2 and 3 of this Application.

Since a person of ordinary skill in the art would not be able to obtain plaferon or to determine what constitutes plaferon based on the disclosure of "Drugs of the Future" reference, "Drug of the Future" cannot anticipate Applicant's claimed invention. "Drug of the Future" also cannot anticipate

Applicant : Vladimir BAKHUTASHVILI
U.S. Serial No.: 10/795,819
Filing Date : March 8, 2004
Page : 10

Applicant's claimed composition because Applicant is claiming a composition for modulating apoptosis and the amount which is effective in modulating apoptosis, neither of which is disclosed by "Drug of the Future."

Therefore, Applicant respectfully requests the reconsideration and withdrawal of the above ground of rejection.

3.2. The Examiner rejected claims 2, 3, 65 and 85-96 under 35 U.S.C. 102(a) as being anticipated by Bakhutashvili et al. (International J immunorehab 1999). See page 5 of June 20, 2005 Office Action.

In response but without conceding the correctness of the Examiner's position and to expedite the prosecution of this Application, Applicant has canceled claims 2, 3, 65 and 85-96 without prejudice. New claims do not contain the above mentioned issues, thereby rendering this ground of rejection moot.

In addition, Examiner states that "Bakhutashvili teaches a composition of plaferon LB, obtained from human amniotic tissues (abstract). The composition comprises other interferons... Since plaferon LB is obtainable from amniotic tissues and exhibited each of the claimed activities and each of the peaks as in figures 2 and 3, the compositions are the same." See page 6 of June 20, 2005 Office Action.

In response, Applicant respectfully traverses the Examiner's above ground of rejection. Applicant maintains that the amniotic tissues for making the claimed composition is

Applicant : Vladimir BAKHUTASHVILI
U.S. Serial No.: 10/795,819
Filing Date : March 8, 2004
Page : 11

separated from the placenta and processed (see page 19, lines 24-27), and therefore, the claimed inventions are not interfereons. Since Applicant's claimed composition does not contain any interferons, it cannot be the same as the composition described in Bakhutashvili et al. Bakhutashvili et al. also do not show plaferon LB exhibits each of the peaks as shown in figure 2 and 3 of this Application. Bakhutashvili et al. also cannot anticipate Applicant's claimed composition because Applicant is claiming a composition for modulating apoptosis and the amount which is effective in modulating apoptosis, neither of which is disclosed by Bakhutashvili et al. Accordingly, reconsideration and withdrawal of the above ground of rejection is respectfully requested.

3.3. The Examiner rejected claims 2, 3, 65 and 85-96 under 35 U.S.C. 102(a) as being anticipated by Johnson et al.

In response but without conceding the correctness of the Examiner's position and to expedite the prosecution of this Application, Applicant has canceled claims 2, 3, 65 and 85-96 without prejudice. New claims do not contain the above mentioned issues, thereby rendering this ground of rejection moot.

In addition, the Examiner states that "Johnson teaches a composition of plaferon LB... Since plaferon LB is obtainable fro amniotic tissues and exhibits each of the claimed activities and each of the peaks as in figures 2 and 3, the compositions are the same." See page 7 of June 20, 2005 Office Action.

Applicant : Vladimir BAKHUTASHVILI
U.S. Serial No.: 10/795,819
Filing Date : March 8, 2004
Page : 12

In response, Applicant respectfully traverses the Examiner's above ground of rejection. Applicant maintains that Johnson et al. do not teach a person of ordinary skill in the art what constitutes the composition of plaferon LB or how to obtain such a composition. Therefore, Johnson et al. cannot anticipate Applicant's claimed composition. Johnson et al. also cannot anticipate Applicant's claimed composition because Applicant is claiming a composition for modulating apoptosis and the amount which is effective in modulating apoptosis, neither of which is disclosed by Johnson et al. Furthermore, Johnson et al. do not show plaferon LB exhibits each of the peaks as shown in figure 2 and 3 of this Application. Accordingly, reconsideration and withdrawal of the above ground of rejection is respectfully requested.

3.4. The Examiner rejected claims 2, 3, 65 and 85-96 under 35 U.S.C. 102(a) as being anticipated by Pantsulaya et al. (Proc Georgian Acad Sci Biol Ser, 1999). See page 8 of June 20, 2005 Office Action.

In response but without conceding the correctness of the Examiner's position and to expedite the prosecution of this Application, Applicant has canceled claims 2, 3, 65 and 85-96 without prejudice. New claims do not contain the above mentioned issues, thereby rendering this ground of rejection moot.

The Examiner states that "Pantsulaya teaches compositions comprising plaferon LB obtained from amniotic membranes... The compositions of plaferon LB have peaks set forth in figures 3,

Applicant : Vladimir BAKHUTASHVILI
U.S. Serial No.: 10/795,819
Filing Date : March 8, 2004
Page : 13

2, or at least one of peak in figure 3 or 2 (p. 77)." See page 9 of June 20, 2005 Office Action.

In response, Applicant respectfully traverses the Examiner's above ground of rejection. Applicant maintains that Pantsulaya et al. do not teach a person of ordinary skill in the art what constitutes the composition of plaferon LB or how to obtain such a composition. Therefore, Pantsulaya et al. cannot anticipate Applicant's claimed composition. Pantsulaya et al. also cannot anticipate Applicant's claimed composition because Applicant is claiming a composition for modulating apoptosis and the amount which is effective in modulating apoptosis, neither of which is disclosed by Pantsulaya et al. Furthermore, Pantsulaya et al. do not show plaferon LB exhibits each of the peaks as shown in figure 2 and/or 3 of this Application. Accordingly, reconsideration and withdrawal of the above ground of rejection is respectfully requested.

Conclusion

Applicant respectfully maintains that the rejections raised by the Examiner in the June 20, 2005 Office Action have been fully addressed. Therefore, this Application is in full compliance with all requirements. Accordingly, Applicant respectfully urges the Examiner to reconsider and withdraw all rejections in the Office action and place this Application in conditions for allowance.

If a telephone interview would be of assistance in advancing prosecution of the subject application, Applicant's undersigned attorney invites the Examiner to telephone him at the number provided below.

Applicant : Vladimir BAKHUTASHVILI
U.S. Serial No.: 10/795,819
Filing Date : March 8, 2004
Page : 14

No fee other than the FIVE HUNDRED AND TEN DOLLARS (\$510.00) fee for three-month extension of time is deemed necessary in connection with the filing of this request. However, if any additional fee is required, authorization is given to charge the amount of any such fee to Deposit Account No. 50-1891.

Respectfully submitted,

Albert Wai-Kit Chan

I hereby certify that this communication/amendment is being facsimile transmitted to:

Commissioner for Patents
P.O. Box 1450
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on the date shown below.

Albert Wai-Kit Chan 2/20/05
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